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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH SECTION 271
OF THE TELECOMMUNICATIONS
ACT OF 1996

DOCKET NO. T00000A-97-0238

STAFF RESPONSE TO AT&T'S MOTION
FOR STAY OF PROCEEDING OR, IN THE ALTERNATIVE,
TO REOPEN THE RECORD REGARDING
THE PUBLIC INTEREST

On August 12, 2002, AT&T Communications of the Mountain States, Inc. and TCG Phoenix ("AT&T") filed a Motion to Suspend the 271 proceeding or to reopen the public interest phase of the record due to a July 29, 2002 announcement by Qwest relating to its accounting treatment of certain lit capacity indefeasible rights of use ("IRU") agreements. AT&T claims that the announcement demonstrates that Qwest improperly accounted for the agreements as "asset sales" when it should have accounted for them as "service contracts". The end result, according to AT&T, is that Qwest has been unlawfully providing in-region interLATA services through such agreements since the time of the merger between U S WEST and Qwest. AT&T Motion at p. 1. AT&T believes that a stay of this proceeding is appropriate pending the outcome of the FCC's complaint proceeding, or in the alternative requests that the Commission initiate a full investigation into Qwest's IRUs to determine if Qwest has and continues to provide interLATA services in violation of the Act.

While Staff agrees with AT&T that the issue raised is a serious one, this issue is already the subject of a complaint proceeding brought by Touch America at the FCC.¹ That complaint is still pending at the FCC. A parallel, independent investigation by this Commission, as AT&T suggests, of whether Qwest violated the provisions of the Telecommunications Act through its use of IRUs,

¹ See, Touch America v. Qwest Communications International, Inc., Qwest Corporation, and Qwest Communications Corporation, File No. EB-02-MD-003 (filed Aug. 2, 2002).

1 would serve no useful purpose. Under the Telecommunications Act, the FCC has jurisdiction over
2 such matters, and it must make the ultimate findings and conclusions on this issue. In the alternative,
3 AT&T requests a stay in the 271 proceeding pending the outcome of the FCC's investigation. While
4 not intending to minimize the seriousness of this issue, the Staff does not, however, believe that such
5 drastic action is warranted at this time. No findings have been made by the FCC that Qwest violated
6 the Act. Further, the FCC will address any violation by Qwest of its Divestiture Order² or of Section
7 271 of the Act, within the context of the federal complaint proceeding now underway.

8 As to AT&T's request to reopen the public interest portion of the record to discuss this issue,
9 all parties have already had the opportunity to discuss this issue in the context of the public interest
10 phase of the Arizona Section 271 proceeding, and it was also discussed in Staff's initial Public
11 Interest Report and Recommendation. If AT&T desires to make the Qwest press release part of the
12 record, it can submit it as new evidence in a supplemental filing, which the Staff will then consider in
13 its Final Public Interest Report and Recommendation to the Commission.

14 In summary, Staff opposes the AT&T Motion, and for the reasons given, respectfully submits
15 that the Commission deny it.

16
17 RESPECTFULLY SUBMITTED this 3RD day of September, 2002.

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² Qwest Communications Int'l, Inc. and U S WEST, Inc., Applications for Transfer of Control of Domestic and International Sections 214 and 310 Authorizations and Application To Transfer Control of a Submarine Cable Landing License, Memorandum Opinion and Order, CC Docket No. 99-272, (2000).

Original and 15 copies of the foregoing
were filed this 3rd day of September 2002, with:

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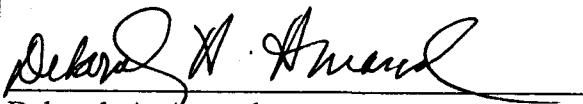
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